

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

LEONARDO GUZMAN VASQUEZ,

Plaintiff,

v.

MARK ALBERT MORLOK, et al.,

Defendants.

Case No. 1:24-cv-01068-KES-SAB

ORDER VACATING APRIL 21, 2025
FINDINGS AND RECOMMENDATIONS
AND EXTENDING TIME FOR
DEFENDANT MORLOK TO ANSWER

JUNE 9, 2025 DEADLINE

Plaintiff commenced this action on September 9, 2024. (ECF No. 1.) The deadline to serve Defendants was December 8, 2025, but Plaintiff failed to file proof of service as required by the Court's September 9, 2024 order. Accordingly, on January 14, 2025, the Court ordered that Plaintiff file a notice of status of service. (ECF No. 4.) On January 21, 2025, Plaintiff informed the Court that he had not yet attempted service and requested an extension of "not less than 120 days" to do so. (ECF No. 5.) On January 22, 2025, the Court stated it did not find good cause to allow the case to linger on the Court's docket for eight months before Plaintiff would attempt to serve Defendants. (ECF No. 6.) However, the Court found good cause to extend the time for service until February 21, 2025. (Id.)

On February 21, 2025, Plaintiff returned service documents for Defendant Penske Logistics. (ECF No. 7.) No service documents were filed for Defendant Mark Albert Morlok. On March 13, 2025, Plaintiff filed a status report and a request to continue the mandatory scheduling conference by 120 days. (ECF No. 8.) Therein, Plaintiff represented that counsel

1 had received confirmation that Penske was served; however, Defendant Morlok, who Plaintiff
2 believes was acting in the course and scope of his employment with Penske, had not been served.
3 Plaintiff proffered he was awaiting a response to a settlement demand made to Penske on
4 February 12, 2025. On March 18, 2025, the Court did not find good cause to extend the deadline
5 to serve all Defendants by an additional 120 days. (ECF No. 9, p. 2.) However, the Court
6 extended the deadline to serve Defendant Morlok to April 1, 2025, or, alternatively, that Plaintiff
7 file a motion requesting proper relief supported by good cause.

8 On April 1, 2025, Plaintiff filed a document entitled “request for relief from requirements
9 to serve summons on Defendant Morlok.” (ECF No. 10.) Plaintiff contended he attempted to
10 serve Defendant Morlok at the same address in Oregon six times between February 13 and
11 February 26, 2025. (*Id.* at p. 22.) Plaintiff asserted that he had enlisted an investigator to run a
12 skip trace and a postal verification on the last known address for Defendant Morlok. (*Id.*)
13 Defendant Penske has informed Plaintiff it declined to indemnify or provide a defense for
14 Defendant Morlok at this time. (*Id.* at p. 3.) Plaintiff assured the Court that as soon as
15 Defendant Morlock’s whereabouts are discovered, he would once again proceed with service.
16 (*Id.*) However, Plaintiff argued he will be unable to conduct discovery as to Defendant Morlok
17 until such time as Penske enters the litigation, and the time for discovery commences or is set at
18 the Mandatory Scheduling Conference. (*Id.*) Plaintiff therefore “request[ed] relief from the
19 requirements of servicing Mr. Morlock until a reasonable opportunity to conduct discovery is
20 had.” (*Id.*)

21 The Court denied the motion, finding no basis in fact or law to support indefinite relief.
22 (ECF No. 13.) That said, the Court gave Plaintiff a final brief extension to April 18, 2025, in
23 which to effectuate service on Defendant Morlok or file a motion requesting proper relief. (*Id.*)
24 The Court admonished Plaintiff that “**[s]hould Plaintiff fail to comply with this order, the**
25 **Court will issue findings and recommendations recommending that Defendant Morlok be**
26 **dismissed for failure to complete service and failure to obey a court order without further**
27 **order from the Court.**” (*Id.*) (emphasis in original). The deadline passed, and Plaintiff failed to
28 file proof of service, a motion for an extension of time, or a motion to complete alternative

1 service. On April 21, 2025, the Court issued findings and recommendations, recommending that
2 the District Judge dismiss Defendant Morlok for failure to comply with a court order and failure
3 to prosecute. (ECF No. 15.) The Court informed the parties that they had fourteen days to
4 object to the findings and recommendations. (Id.)

5 On April 25, 2025, Defendant Morlok filed a letter with the Court informing that he had
6 been served and did not have an attorney. (ECF No. 16.) On April 25, 2025, Plaintiff filed a
7 notice of summons returned executed as to Defendant Morlok. (ECF No. 19.) On May 4, 2025,
8 Plaintiff filed objections to the findings and recommendations. (ECF No. 20.) Therein, Plaintiff
9 informed the Court that Defendant Morlok had been served on April 8, 2025, and Plaintiff knew
10 about service as early as April 16, 2025. (Id.) Plaintiff states that on April 21, 2025, he received
11 confirmation of the proof of service, which he later filed on April 25, 2025. (Id.) Plaintiff also
12 acknowledged that this Court's findings and recommendations were premised on Plaintiff's
13 failure to file a motion, report, or other filing by April 18, 2025. (Id.) Plaintiff asserts that this
14 failure was a calendaring error. (Id.)

15 However, as described above, Plaintiff has had a history of failing to comply with court
16 orders, which is unacceptable. Therefore, the Court admonishes Plaintiff that going forward any
17 failure to comply with a court order will result in an order to show cause, and the Court will
18 consider imposing sanctions, including recommending dismissal of this case. That said, given
19 the foregoing, the Court will vacate its April 21, 2025 findings and recommendations.

20 In addition, because it appears that Defendant Morlok is proceeding pro se, with
21 Defendant Penske Logistics not representing him, the Court will give additional time, up to and
22 including June 9, 2025, for Defendant Morlok to file an answer. The Court notes for Defendant
23 Morlok's benefit that the District Court has a webpage for "Representing Yourself (Pro Se
24 Litigant)," available on the Court's website:
25 [https://www.caed.uscourts.gov/caednew/index.cfm/cmecf-e-filing/representing-yourself-pro-](https://www.caed.uscourts.gov/caednew/index.cfm/cmecf-e-filing/representing-yourself-pro-selitigant/)
26 [selitigant/](https://www.caed.uscourts.gov/caednew/index.cfm/cmecf-e-filing/representing-yourself-pro-selitigant/). Therein, the Court provides a form entitled "The Defendant's Answer to the
27 Complaint," which the Court shall direct the Clerk of Court to send Defendant Morlok as a
28 courtesy. Should Defendant Morlok elect to use the form answer, he shall pay particular

1 attention to the directions in Section II.A., which requires that, on separate pages, that he write a
2 short and plain statement of the answer to the allegations in the complaint with enumerated
3 paragraphs corresponding to each paragraph within the complaint. For each paragraph in the
4 complaint, Defendant Morlok shall state whether he admits the allegations in that paragraph,
5 denies the allegations, lacks sufficient knowledge to admit or deny the allegations; or admits
6 certain allegations but denies, or lack sufficient knowledge to admit or deny, the rest. See Fed.
7 R. Civ. P. 8(b)(2)-(5). The Court will impose a deadline for Plaintiff to file for entry of default
8 should Defendant fail to timely file an answer.

9 Accordingly, it is hereby ORDERED that:

- 10 1. The April 21, 2025 findings and recommendations (ECF NO. 15) are VACATED;
- 11 2. Defendant Morlok shall have through **June 9, 2025**, to file an answer;
- 12 3. The Clerk of the Court is DIRECTED to send Defendant Morlok this order along
13 with “The Defendant’s Answer to the Complaint” form;
- 14 4. Should Defendant Morlock fail to file an answer, Plaintiff shall have through
15 **June 13, 2025**, to file for an entry of default;
- 16 5. **Should Plaintiff fail to comply with this order, the Court will issue an order**
17 **to show cause and consider imposing sanctions, including recommending**
18 **dismissal of this action.**

19 IT IS SO ORDERED.

20 Dated: **May 5, 2025**



21 STANLEY A. BOONE
22 United States Magistrate Judge
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